

J. J. WILLIAMS

INELIGIBLE

DOUBT REMOVED

Carefully Prepared Opinion of

Eminent Memphis Lawyer.

Lovick P. Miles Investigates

Much Discussed Question

and Finds Law Clearly

Settled.

Will J. J. Williams, candidate for

mayor, be eligible to hold the office

if he should receive a majority of votes

cast for mayor at the November elec-

tion, is the question which has been

discussed in the city for some time.

The legislature has declared in the

charter of Memphis, among other

things, that no person shall be eligible

to act as mayor who has not resided

five years in the city of Memphis next

preceding his election. Under this

provision, it is claimed by some

that Williams is ineligible, while

others claim that he is eligible.

It is claimed by some that he is

ineligible because he will not have

resided five years in the city of Mem-

phis next preceding his election, and

therefore his right to hold the office

must be denied. Others claim that

upon (1) whether the charter pro-

vision prescribing the qualification of

mayor is valid, and (2) whether, if

the provision be valid, he has been a

resident of any place other than Mem-

phis next preceding his election, the

question is settled. These questions

will be discussed in this article.

Of the validity of the charter pro-

vision making any person ineligible to

hold the office of mayor who has not

resided five years in the city of Mem-

phis next preceding his election, it is

entirely settled. The fact that in

our history there have been many

factions and political parties, and

that the provision has never been

questioned, while it is a fact that

certain individuals have been elected

mayors, does not indicate its constitu-

tionality.

The legislature has the power to pre-

scribe the form of government for cities;

it can create municipal corporations; it

can grant, and subject to some lim-

itations, it can take away the fran-

chise of cities. It can, therefore, at

any time, declare that from time to

time, what offices shall exist, what

officers shall be chosen, and how

they shall be selected by the citizens

or appointed by other authority. The

power of the legislature over the mu-

nicipal corporations is complete, and

it is complete in every sense of the

word. It is complete in the sense that

it is complete in the sense that it

In the election district, and (2) regis-

tration as an elector in the state and

district, and with knowledge of these

provisions of the law Mr. Williams was

charged at the time he voted.

The legislature of Mississippi, pro-

vided, as required by Section 242 of

the constitution of Mississippi, for the

registration of all persons entitled to

vote at any election. (Hemphingway's

Annotated Mississippi Code, Section

6741 et seq.) and among other pro-

visions, required the voter to take and

subscribe "the oath prescribed by

Section 242 of the constitution," which

oath it is claimed by some that Mr.

Williams took at the time he regis-

tered, the oath declaring, among

other things, the following:

"I, the undersigned, do solemnly

swear that I am 21 years old and that

I will have resided in this state two

years next preceding the ensu-

ing election. And am now in

good faith a resident of the same

that I will faithfully support the

constitution of the United States

and of the state of Mississippi, and

will bear true faith and allegiance to

the same. So help me God."

Mr. Williams has been quoted as

stating that he has subscribed

himself "in good faith a resi-

dent of Mississippi in order to become

registered voter and entitled to ex-

ercise the franchise in the elec-

tion in Mississippi was "perfunctory."

The facts of the case, however, are

different. Mr. Williams, who is a

resident of Memphis, was declared

fundamental, and I am now in

good faith a resident of the same

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CITY

LIGHTENS

CHICKEN DEALERS

All Dealers Who Sell to Re-

tailers Must Have Proper

Licenses.

Dr. Louis Leroy, whose term as a

member of the board of trustees of the

Memphis and Shelby county tubercu-

losis hospital had expired, was re-nom-

inated for a four-year term Tuesday af-

ternoon at the regular meeting of the

commission. Mayor Monteverde made

the recommendation, which was af-

firmed unanimously.

Bids on a new automobile for the

police department were received from

one firm, the Tri-State Motor Sales

company, which offered a King five-

passenger car for \$12,000, or two five-

passenger cars for \$12,000. The

award will be made on Wednesday

next. It provides that every firm

which sells milk, cream, milk, cream,

etc., must have a permit to sell to

retailers. This is to prevent the sale

of milk from another who has no

permit and then reselling.

An ordinance for the improvement of

Bullington avenue from Mississippi

boulevard to Taylor street was passed

on Tuesday.

Confirmation of Oliver avenue street

improvement was made. There was no

protest. It passed. Two complaints,

written protests on the Florida street

improvement, caused it to be held

over for two weeks.

The ordinance providing for regulation

of public dance halls, recommended

by the women's central committee, passed

second reading without amendment. It

is understood it will be amended, how-

ever, before next session.

Apportionment of the proceeds of the

sale of \$200,000 worth of street im-

provement bonds, was made in an ordi-

nance which passed first reading, without

amendment. The city's one-third share

of the bonds will be \$112,000. The

proceeds of the sale of the bonds will

be \$336,000. The city's one-third share

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# Williams Is Ineligible!

## Eminent Lawyers Give Conclusive Opinion Showing That Williams Could Not Hold Office if Elected Mayor of Memphis

**CITIZENS' LEAGUE:** You have requested our opinion as to the eligibility of Mr. J. J. Williams to hold the office of Mayor of the City of Memphis, having called our attention to the admitted facts that in the year 1915 Mr. Williams registered and voted in the primary election in De Soto County, Mississippi, and also to his published statement that he "signed some sort of a book which he stated was a purely perfunctory matter and that he made no representation and took no oath." No person could vote in a primary election in Mississippi but a registered voter. Miss. Code, 1906, Sec. 3702. Before Mr. Williams could legally vote in a primary election in the State of Mississippi in the year of 1915, he was required by law, under Section 242 of the Constitution of that State and Sections 4113 and 4117 of the Code of 1906, to reside in the State two years before the regular election and to register by taking oath and signing it (in a book), which oath was that he has "resided in this State (Mississippi) two years . . . next preceding the ensuing election and am now in good faith a resident of same." So it follows that in order to vote in this primary in Mississippi Mr. Williams must have registered and made oath by signing it in a book that he resided in that State for two years before the ensuing election. Mr. Williams in his signed statement also says:

"There was a primary election and I voted in that election. I was told by my friends that my residence in Mississippi for two years entitled me to vote."

Assuming that Mr. Williams was correct when he swore, as he must have done in order to register and vote, that he resided in the State of Mississippi, and that he was correct in saying that his residence in Mississippi for two years entitled him to vote, then Mr. Williams resided in Mississippi in 1915. Of course, his oath could not be a "perfunctory" matter, because it is a signed and solemn oath in a registration book which is required by the Constitution of the State of Mississippi in Section 242, and wilfully swearing falsely about it is a felony.

Miss. Constitution, Sec. 242.  
Miss. Code of 1906, Sec. 1318.

If Mr. Williams was, as he claimed then and says now, a resident of Mississippi in 1915, he could not be a resident of the City of Memphis in 1915.

The charter of the City of Memphis provides that no person shall be eligible for the office of Mayor unless he has been a bona fide resident of the City of Memphis for five years next preceding his election. The coming election is November 6, 1919. August, 1915, when Mr. Williams claimed and still says he resided in the State of Mississippi, was only four years and three months before

the coming election on November 6, 1919. It follows, of course, that Mr. Williams has not been a bona fide resident of the City of Memphis for five years before the election of November 6, 1919. To register and vote in Mississippi he had to reside in Mississippi in August, 1915. To hold the office of Mayor of the City of Memphis this next time he must have resided in Memphis in August, 1915. Of course, Mr. Williams could not reside in the State of Mississippi and in the City of Memphis for the purpose of being a voter at the same time in August, 1915. So we are, therefore, of the opinion under Mr. Williams' own statement and oath, which we assume to be true, that he is ineligible and would be disqualified from holding the office of Mayor of the City of Memphis, if elected the election of November 6, 1919.

The charter provisions make no reference to citizenship as seems to be erroneously supposed, but the same residence in Mississippi which entitled Mr. Williams (as he was advised) to vote there disqualifies him from holding the office of Mayor of the City of Memphis under the City Charter, because if he resided in Mississippi for that purpose he could not have resided in Memphis for the same purpose, at the same time.

You have also asked our opinion as to the constitutionality of the provision of the charter of Memphis above referred to. In our opinion this provision is clearly constitutional. The General Assembly of the State of Tennessee has all the power to legislate which is not forbidden to it either by the Constitution of the United States or the State of Tennessee. There is no provision in either the Federal or State Constitution which either prescribes the qualifications for municipal officers in Tennessee or forbids the Legislature from prescribing such qualifications. The General Assembly, therefore, in our opinion had the power to prescribe the five years' residence which is found in the Charter of the City of Memphis. This question has been before the courts of several States and the decided weight of authority is that such provisions are both reasonable and constitutional. This was clearly decided by the Supreme Courts of California and Missouri in opinions upholding similar provisions in the Charters of San Francisco and St. Louis, respectively.

Giving, therefore, the full credence to the oath Mr. Williams was required by law to sign in order to vote in Mississippi in August, 1915, and to the facts in his published statement now made, we are of the opinion that he is ineligible to the office of Mayor of the City of Memphis, to be elected on November 6th, 1919.

Very truly yours,  
ELIAS GATES,  
JULIAN WILSON,  
WALTER P. ARMSTRONG,  
E. B. KLEWER.

RED CROSS TO USE

FOUR MINUTE MEN

Men and Women Will Join in

Raising Peace-Program

Fund.

Theater speakers, many of them

men, during the war acted as four-

minute men in local theaters, will aid

in the third annual roll call and peace

program campaign of the American Red

Cross. This announcement was made

Wednesday by John E. Lippitt, who is

manager for Memphis and Shelby coun-

ty in the big drive, which will open on

Nov. 2 for one week.

The Rev. W. E. Clark, Unitarian

minister, and former four-minute man,

has been named director of theater

speakers for the drive. He visited At-

lanta early this week, where he called

on the officers of the Southern division

of the American Red Cross, to get nec-

essary facts to communicate to his

speakers for their drive. He is expect-

ed to return to Memphis Thursday.

The Red Cross drive is national. Pas-

sengers throughout the country, regardless

of creed, have been asked to designate

Sunday, Nov. 2, the opening day of the

drive, as Red Cross day in the churches.

This request has gone out to Memphis

pastors.

The drive is for a renewal of 25,000-

000 memberships at \$1 each, and to

raise a peace-program fund of \$15,000.

Memphis quota is \$45,000.

The good women of the land have

been enlisted in the fight. Mrs. K. G.

Duffield and Mrs. Harry Boyd are, re-

spectively, the chairman and vice-chair-

man of the women's division for Mem-

phis and Shelby county. Their work

will be the roll call, or renewal of mem-

bership. They and their 70 workers

will solicit the downtown section, and

the parent-teacher associations will fur-

nish the workers in the residential dis-

tricts.

The men of Memphis and Shelby

county are expected to raise \$12,000 for

the peace program. This will go toward

carrying on the peace work of the Red

Cross—improving sanitary and edu-

cational conditions.

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## Vote For The CITIZEN'S LEAGUE TICKET



For Commissioner

Thos. H. Allen



For Commissioner

John B. Edgar



For Mayor

ROWLETT PAYNE



For Commissioner

Horace Johnson



For Commissioner

Chas. R. Shannon

## Good Government and Progress